



FEDERAL ELECTION COMMISSION

1125 K STREET N.W.
WASHINGTON, D.C. 20463

REPORT OF THE AUDIT DIVISION
ON
BROWN FOR PRESIDENT COMMITTEE

I. Background

This report covers an audit of the Brown for President Committee, undertaken by the Audit Division to determine whether there has been compliance with the Federal Election Campaign Act of 1971, as amended ("the Act"). The audit was conducted pursuant to Section 438(a)(8) of the Act, which directs the Commission to give priority to auditing of the verification for, and the receipt and use of, any payments received by a candidate under Chapters 95 or 96 of the Internal Revenue Code of 1954, and by authority of Section 9038(a) which directs the Commission after each matching payment period to conduct a thorough examination and audit of the qualified campaign expenses of every candidate and his authorized committees that received payments under Section 9037.

The audit covered the period from March 22, 1976, the date of the Committee's inception, through June 30, 1977. During the period March 22, 1976 through June 30, 1977, the Committee reported total receipts of \$2,213,039.76 and total expenditures of \$2,188,181.64.

As of June 30, 1977, the Committee had \$24,858.12 in cash-on-hand and \$164,621.25 in remaining debt.

The principal officers of the Committee during the period covered by the audit were Mr. Leo T. McCarthy, Chairman; and Mrs. Mariana Pfaelzer, Treasurer.

This audit report is based on documents and working papers supporting each of its factual statements. They form part of the record upon which the Commission based its decisions on the matters in this report, and were available to Commissioners and appropriate staff for review.



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II. Findings and Conclusions

A. Disclosure of Contributor Information

Section 434(b)(2) of the Act requires disclosure reports to contain the full name and mailing address (occupation and the principal place of business, if any) of each person who has contributed in excess of \$100.00 to a committee within a calendar year, together with the amount and date of such contributions. Also Section 434(b) of the Act states the committee treasurer shall be deemed to be in compliance when they can show best efforts have been used to obtain the information required by Section 434(b).

Review of the Committee's contribution records and disclosure reports revealed that 21 of 145 contributors (14.48%) tested who gave in excess of \$100.00 were not itemized, and that 111 of 380 contributors (29.21%) tested of those itemized on the reports did not have occupation or the principal place of business disclosed.

The Committee filed an amendment to Schedule A on January 24, 1977, for the months of May and June, 1976, which listed 15 of the 21 contributors not previously itemized as contributing in excess of \$100.00 and disclosing the occupation and principal place of business for 69 of the 111 originally lacking such information. Also, the Committee has requested information on occupation and the principal place of business from the reported contributors lacking that information.

Recommendation

The Audit staff recommends the Commission determine that the Committee has made its best efforts to obtain the information in compliance with Section 434(b) of the Act and no further action be taken on this matter.

B. Failure to Disclose Source of a Transfer

Section 434(b)(4) of the Act provides that each report of receipts and expenditures shall disclose the name and address of each political committee or candidate from which the reporting committee or candidate received any transfer of funds, together with the amounts and dates of all transfers.

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The Committee did not itemize the transfer of \$4,000 received May 5, 1976, from the CWA COPE Political Contributions Committee. A \$1,000 transfer dated April 30, 1976, from the same committee was reported properly by the Committee.

When this matter was brought to the attention of the Committee's Assistant Controller and Treasurer, they stated they could not recall the specific transfer because of the large volume of transactions. After contacting the Campaign Manager and CWA COPE to confirm the transaction and reviewing the Committee's internal records, the Committee produced documentation indicating that an error in classifying the transfer had occurred. The Committee stated, in writing, that the transfer had been deposited into the Committee's bank account when received, but that it had been inadvertently reported with the unitemized contributions. The Committee filed an amendment to its report which properly classified the transfer on January 24, 1977.

Recommendation

The Committee's failure to itemize the transfer is an apparent violation of the Act, Section 434(b)(4). However, we suggest that the failure to disclose the contribution was an isolated procedural error rather than an intentional subterfuge. In our opinion, the Committee's action in this case was not its practice and does not constitute a serious violation of the Act. The Audit staff recommends no action be taken on this matter.

C. Failure to Disclose Committee Repositories

Section 433(b)(9) of the Act requires that the Committee disclose all repositories used by the Committee.

The Committee failed to file a timely amendment to its Statement of Organization disclosing five (5) of their thirteen (13) depositories. These accounts were used only as imprest accounts, and the transactions in each of them were reported timely to the Commission. The Committee produced records regarding these accounts to the Audit staff. An amended Statement of Organization listing the five repositories was filed on February 3, 1977.

Recommendation

The Audit staff recommends no action be taken on this matter.

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D. Repayments

Part 134.3(c)(2) of the Commission's Regulations provides that if on the last day of candidate eligibility there are net outstanding campaign obligations, any matching payments received may be retained for a period not exceeding six months after the end of the matching payment period in order to liquidate those obligations. Any amounts paid which are not used to liquidate the net outstanding campaign obligations within six months shall be repaid to the Treasury.

Governor Brown's candidacy terminated on July 14, 1976, the date of the Presidential nomination by the Democratic National Convention. He then became ineligible to receive matching payments other than to defray qualified campaign expenses. On the date of Governor Brown's ineligibility, his Committee filed a debt statement showing \$303,713.00 in net outstanding campaign obligations. The Committee had net outstanding campaign obligations in the amount of \$148,319.63 on January 21, 1977, the date of the Committee's final submission for matching funds. Therefore, no repayment is required pursuant to Part 134.3(c)(2) of the Regulations.

Part 134.2(a)(2) of the Regulations provides, however, that the Commission shall inform the candidate "if the Commission determines that any amount of any payment made to a candidate from the matching payment account was used for any purpose other than:

- 1) to defray qualified campaign expenses; or
- 2) to repay loans which were used to defray qualified campaign expenses"

Our review disclosed the Committee paid on June 4, 1976, \$306.00 to the District Court of the State of Oregon, Multnomah County, Oregon. The Treasurer stated the payment was for approximately 60 parking tickets issued to people attending a rally conducted by the campaign. On July 14, 1977, the Commission preliminarily determined the expenditure for the parking tickets did not represent a "qualified campaign expense."

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In determining that such a repayment was required, the Commission considered the Committee Treasurer's position that the non-qualified campaign expenses should be offset against other qualified campaign expenses that exceeded the amount of Federal matching funds received, thereby requiring no repayment. However, the Commission did not accept that position. The Committee on August 4, 1977, remitted to the Commission a check in the amount of \$306.00 made payable to the U.S. Treasurer.

Recommendation

The Audit staff recommends that the Commission take no further action on this matter.

III. Auditor's Statement

Except for the matters specifically noted in this report, the audit disclosed that the Brown for President, Committee conducted their activities in accordance with the Federal Election Campaign Act of 1971, as amended, and Chapter 96 of Title 26, U.S.C., in all material aspects.

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